

(b) The funds in said operating reserve may be used (1) to defray expenses incurred during any fiscal period prior to the time assessment income is sufficient to cover such expenses, (2) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (3) to defray expenses incurred during any period when assessments are suspended or are inoperative and (4) to cover necessary expenses of liquidation in the event of termination of this part.

(c) Upon termination of this part any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate. To the extent practical, such funds shall be returned pro rata to the handlers from whom they were collected.

(d) Terms used in this section shall have the same meaning as when used in said marketing agreement and this part.

[32 FR 16199, Nov. 28, 1967. Redesignated at 44 FR 73012, Dec. 17, 1979; 60 FR 27683, May 25, 1995]

§ 946.248 Assessment rate.

On and after July 1, 1997, an assessment rate of \$0.002 per hundredweight is established for Washington potatoes.

[61 FR 20121, May 6, 1996, as amended at 62 FR 18023, Apr. 14, 1997]

Subpart—Handling Regulations

§ 946.336 Handling regulation.

No person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c), and (g) of this section or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section, except that shipments of the blue or purple flesh varieties of potatoes shall be exempt from both this handling regulation and the assessment requirements specified in § 946.41.

(a) *Minimum quality requirements*—(1) *Grade: All varieties*—U.S. No. 2 or better grade.

(2) *Size*: (i) At least 1 $\frac{1}{8}$ inches in diameter, except that all red, yellow fleshed, and white types may be 1 inch (25.4 mm) minimum diameter, if they

otherwise meet the requirements of U.S. No. 1.

(ii) All Russet types, 2 inches (54.0 mm) minimum diameter, or 4 ounces minimum weight.

(iii) Any type of any size may be packed in a 3-pound or less container if the potatoes otherwise meet the requirements of U.S. No. 1 grade or better at the time of packing.

(iv) *Tolerances*—The tolerance for size contained in the U.S. Standards for Grades of Potatoes shall apply.

(3) *Cleanliness*: All varieties and grades—as required in the United States Standards for Grades of Potatoes. For example: U.S. No. 2—“not seriously damaged by dirt,” and U.S. No. 1—“fairly clean.”

(b) *Minimum maturity requirements*—(1) *Red, yellow fleshed and white types*: Not more than “moderately skinned.”

(2) *Russet types*: Not more than “slightly skinned.”

(c) *Pack*:—(1) *Domestic*: Potatoes packed in cartons shall be U.S. No. 1 grade or better, except that potatoes which fail to meet the U.S. No. 1 grade only because of internal defects may be shipped provided the lot contains not more than 10 percent damage by any internal defect or combination of internal defects but not more than 5 percent serious damage by any internal defect or combination of internal defects.

(2) *Export*: Potatoes packed in cartons shall be U.S. No. 1 grade or better.

(d) *Special purpose shipments*. The minimum grade, size, cleanliness, maturity, and pack requirements set forth in paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

- (1) Livestock feed;
- (2) Charity;
- (3) Seed;
- (4) Prepeeling;
- (5) Canning, freezing, and “other processing” as hereinafter defined;
- (6) Grading or storing at any specified location in Morrow or Umatilla Counties in the State of Oregon, in District 5, or in Spokane County in District 1; or

(7) *Export*, except to Alaska and Hawaii and except as provided in (c)(2) of this paragraph.

Shipments of potatoes for the purpose specified in paragraphs (d)(1) through (7) of this section shall be exempt from inspection requirements specified in paragraph (g) of this section except shipments pursuant to paragraph (d)(6) of this section shall comply with inspection requirements of paragraph (e)(2) of this section. Shipments specified in paragraphs (d)(1), (2), (3), and (5) of this section shall be exempt from assessment requirements specified in § 946.41.

(e) *Safeguards.* (1) Handlers desiring to make shipments of potatoes for peeling shall:

(i) Notify the committee of intent to ship potatoes by applying on forms furnished by the committee for a certificate applicable to such special purpose shipments;

(ii) Prepare on forms furnished by the committee a special purpose shipment report on each such shipment, a copy of which must also accompany each shipment. The handler shall forward copies of each such special purpose shipment report to the committee office and to the receiver with instructions to the receiver to sign and return a copy to the committee office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for cancellation of such handler's certificate applicable to such special purpose shipments and/or the receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of such certificate, the handler may appeal to the committee for reconsideration; such appeal shall be in writing;

(iii) Before diverting any such special purpose shipment from the receiver of record as previously furnished to the committee by the handler such handler shall submit to the committee a revised special purpose shipment report.

(2) Handlers desiring to ship potatoes for grading or storing to any specified location in Morrow or Umatilla Counties in the State of Oregon, to District No. 5, or to Spokane County in District No. 1 shall:

(i) Notify the committee of intent to ship potatoes by applying on forms furnished by the committee for a cer-

tificate applicable to such special purpose shipment. Upon receiving such application, the committee shall supply to the handler the appropriate certificate after it has determined that adequate facilities exist to accommodate such shipments and that such potatoes will be used only for authorized purposes;

(ii) If reshipment is for any purpose other than as specified in paragraph (d) of this section, each handler desiring to make reshipment of potatoes which have been graded or stored shall, prior to reshipment, cause each such shipment to be inspected by an authorized representative of the Federal-State Inspection Service. Such shipments must comply with the minimum grade, size, cleanness, maturity, and pack requirements specified in paragraphs (a), (b), and (c) of this section;

(iii) If reshipment is for any of the purposes specified in paragraph (d) of this section, each handler making reshipment of potatoes which have been graded or stored shall do so in accordance with the applicable safeguard requirements specified in paragraph (e) of this section.

(3) Each handler making shipments of potatoes for canning, freezing, or "other processing" pursuant to paragraph (d) of this section shall:

(i) First apply to the committee for and obtain a Certificate of Privilege to make shipments for processing;

(ii) Make shipments only to those firms whose names appear on the committee's list of canners, freezers, or other processors of potato products maintained by the committee, or to persons not on the list provided the handler furnishes the committee, prior to such shipment, evidence that the receiver may reasonably be expected to use the potatoes only for canning, freezing, or other processing;

(iii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iv) Mail to the office of the committee a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment unless other arrangements are made;

(v) Bill each shipment directly to the applicable processor.

(4) Each receiver of potatoes for processing pursuant to paragraph (d) of this section shall:

(i) Complete and return an application form for consideration of approval as a canner, freezer, or other processor of potato products;

(ii) Certify to the committee and to the Secretary that potatoes received from the production area for processing will be used for such purpose and will not be placed in fresh market channels;

(iii) Report on shipments received as the committee may require and the Secretary approve.

(5) Each handler desiring to make shipments of potatoes for export shall:

(i) Notify the committee of intent to so ship potatoes by applying on forms furnished by the committee for a certificate applicable to such special purpose shipment. Such information shall include the quantity of potatoes to be shipped and the name and address of the exporter;

(ii) After the certificate is approved and the shipment is made, furnish the committee with a copy of the on-board bill of lading applicable to such shipment unless other arrangements are made;

(iii) Before diverting any such special purpose shipment from the receiver of record as previously furnished to the committee by the handler such handler shall submit to the committee a revised special purpose shipment report.

(f) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed 5 hundredweight of potatoes per day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment over 5 hundredweight of potatoes.

(g) *Inspection.* (1) Except when relieved by paragraphs (d) or (f) of this section, no person may handle any potatoes unless a Federal-State Inspection Notesheet or certificate covering them has been issued by an authorized representative of the Federal-State Inspection Service and the document is valid at the time of shipment. Further, any bulk load shipments of potatoes not relieved in paragraphs (d) or (f) of this section must also be accompanied by a Shipping Clearance Report issued

by the Federal-State Inspection Service and valid at the time of shipment.

(2) U.S. No. 1 grade or better potatoes in the State of Washington which are resorted or repacked within 72 hours of being inspected and certified are exempt from reinspection.

(h) *Definitions.* The terms *U.S. No. 1*, *U.S. No. 2*, *not seriously damaged by dirt*, *fairly clean*, *slightly skinned*, and *moderately skinned* shall have the same meaning as when used in the United States Standards for Grades of Potatoes (7 CFR 51.1540–51.1566), including the tolerances set forth in it. The term *prepeeling* means the commercial preparation in the prepeeling plant of clean, sound, fresh tubers by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 United States Standards for Grades of Peeled Potatoes (7 CFR 52.2421–52.2433). The term *other processing* has the same meaning as the term appearing in the Act and includes, but is not restricted to, potatoes for dehydration, chips, shoe-strings, starch, and flour. It includes the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute “other processing.” Other terms used in this section have the same meaning as when used in the marketing agreement, as amended, and this part.

[53 FR 8143, Mar. 14, 1988, as amended at 53 FR 21794, June 10, 1988; 54 FR 27864, July 3, 1989; 54 FR 41586, Oct. 11, 1989; 55 FR 28752, July 13, 1990; 57 FR 30380, July 9, 1992; 58 FR 33017, June 15, 1993; 61 FR 31007, June 19, 1996]

EDITORIAL NOTE: After January 1, 1979, “Budget of Expenses and Rate of Assessment” regulations (e.g. sections .200 through .299) and “Handling” regulations (e.g. sections .300 through .399) which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the “List of CFR Sections Affected” in the Finding Aids section of this volume.